Save The Children Alliance's Concerns Regarding Children's Rights In Afghanistan

March 2004.

Background:

Afghanistan has seen dramatic political and administrative changes, improvements in security and an increase in international assistance since late 2001. The phase of concentrated humanitarian assistance which was the focus of all development agencies in 2002 has gradually moved into long term development and reconstruction assistance in 2003 and thereafter. A greater degree of planning and coordination by both donors and NGOs with the Islamic Transitional Administration of Afghanistan (ITAA) is also clearly visible.
Steps to revitalise and reorganise the administrative, legislative and executive structures have been initiated. The convening of the National Loja Jirga and the Constitutional Loja Jirga in 2002 and 2003 respectively were major steps in the nation building process. The subsequent adoption of a new Constitution in December 2003 was an essential prerequisite to ensure fundamental rights for all citizens. The introduction of a new system of Afghan currency by the ITAA to check "money laundering", inflation and extreme exchange fluctuations that plagued the economy, and the establishment of the Afghan National Army with the objective of replacing all other "informal armed groups and armies" operating all over the country were also two major achievements in 2002-2003. The ITAA, in a bid to promote economic development at provincial and district levels in partnership with civil society organisations and community groups, has launched the National Solidarity Programme (NSP). A process towards decentralisation of power from Kabul to the provinces and including rural people in development planning is expected through this programme currently under implementation.

Despite these national development measures, children and their families continue to be severely affected by the impact of over two decades of conflict in the country. Over twenty years of war, drought, poverty and displacement have created an extremely difficult, instable and insecure environment for Afghan children and young people especially girls. The overburdened and barely functioning social service systems have been further strained by the large numbers of displaced families and returning refugees, amounting to about 3 million people. Factional strife, tribal rivalry and internal disputes, robbery and extortion of money continue to threaten the security of families in many parts of the country. Despite all its efforts to provide a secure environment the Transitional Administration has not been able to extend its authority nationwide and effectively address this security challenge. The Save the Children Alliance calls for focused and specific measures to address the immediate and long term needs and rights of children and young people at this juncture, when the contents of the new Constitution are going to be interpreted and implemented in Afghanistan and a national level human rights agenda is being formulated aimed at ensuring security, protection and development for all citizens.

This paper highlights current concerns regarding children's protection and security identified by:

- Groups of Afghan children in 11 provinces of Afghanistan, the AIHRC, human rights NGOs, youth groups and UN bodies consulted by Save the Children Sweden-Norway during 2003 in Afghanistan
- Save the Children USA's Protection teams in Kabul, Mazar and Quetta
- Save the Children UK's Child Protection Officers in Mazar and Kabul

The points below aim at flagging the Save the Children Alliance's main current concerns regarding children's protection and security in Afghanistan, so that due attention is given to children's rights by the participants at the Commission on Human Rights at its 60th session. These issues are central to the human rights' situation of children and adolescents in Afghanistan.

Protection of children's rights in Afghanistan and of Afghan refugee- returnee children

The points below reflect our concerns in relation to the rights of children and young people up to the age of 18, irrespective of local perspectives prevailing in Afghanistan where childhood is usually considered as ending earlier (around 10, 12 or 14 both for boys and girls, especially if they get married early). Taking serious note of the clarification above on the definition of a child, the **special needs of adolescent children** should not be overlooked and must be adequately addressed (e.g. in the fields of security, education, health, psychosocial support, lifeskills' development, conflict resolution, disarmament, demobilisation, socio-economic reintegration, psychological adjustment to society including family reintegration etc.)

Also as regards to the national legal framework, the CRC remains to be internalised. (Afghanistan ratified the CRC on 27 April 1994, but with a sweeping reservation which potentially limits its scope of applicability[1]). Additionally, issues relating to the status and roles of children and young people as citizens and recognition of their human rights remains inadequately addressed within the Constitutional Reform and Judicial Reform processes completed/currently under completion in Afghanistan. Processes to include consultations with children and young persons on issues relating to their civil, economic and social rights remains a missing factor despite the fact that they constitute over a third of the population and at least 40% of them are primary wage earners for their families.

<u>Immediate needs</u>

Ensuring the basic rights to survival, protection and development continues to be a priority for children in Afghanistan:

There is an **acute need to meet the survival needs** both of internally displaced persons and returnee families especially during the acute winter months. The situation is compounded in those areas still suffering from the aftermath of the drought especially in Kandahar and the provinces to the west of it and also in the Hazarajat region. Families in these areas still have limited opportunities for ensuring food security and basic health care. The drought spreading over 4 years has resulted in decreased agricultural production, loss of land and assets, livestock depletion and a rise in individual and family debt. These factors in turn have severely weakened household coping strategies and heightened food insecurity ; resulting among other things in high rates of chronic malnutrition among children, increasing numbers of working children, very young girls being given away in marriage for families to 'earn' a dowry as a last resort to escape full indebtedness, handover of children by families in the absence of money for debt release, and an increasing trend by families to turn towards poppy cultivation once more in many areas of the country. There was a fair grain harvest in some provinces in 2003 which helped ease the acute situation seen in 2002, but only marginally. Given the present situation, food support as well as rehabilitation support to vulnerable households will remain an acute need for at least one to two year ahead both for families still suffering from the drought and for those attempting to build up their lives in the aftermath.

Mines and UXOs

The UN Mine Action Program for Afghanistan (MAPA) provides an update on mined areas in Afghanistan, which it now estimates at 734 sq km of mined land. Since September 11, the estimated mined area has increased by 100 sq km, due to newly surveyed land along Northern Alliance front lines, newly mined regions by local factional groups and Taliban in Herat, Gardez and Kandahar, and new unexploded ordnance (UXO) threats from the Coalition bombing. The Coalition bombed 103 sites in Afghanistan with a total of 1,014 cluster bombs (translating into 250,000 bomblets). Estimates indicate that 12,500 of these remain even today as UXOs and need to be destroyed. MAPA has a strategic plan that aims to complete clearance of priority areas and the complete marking of non-priority areas within seven years. (Alliance Action Plan, November 2001)

---

[1]Upon signature, Afghanistan entered the following Declaration: "The Government of the Republic of Afghanistan reserves the right to express, upon ratifying the Convention, reservations on all provisions of the Convention that are incompatible with the laws of Islamic Shari'a and the local legislation in effect."

Mine awareness is thus highly necessary among both internally displaced families returning to their areas of origin and also returnee refugee children especially in the rural areas where they run the risk of injury while fetching firewood or water, going to school, tending cattle, doing agricultural work for the family, or even playing out in the open fields. Recent reports from human rights groups state that landmines and UXOs continue to account for about 300 deaths per month 70% of which are estimated to be civilian casualties including children.

Prevention of Injury and Accident. Many children interviewed appear to live in fear of physical accidents. This fear comes not only from the danger of mines but because children live in destroyed and damaged environments where they can easily injure themselves in the debris of houses, on scrap metal, on unexpected holes. In one focus group discussion with children in Kabul the children drew a map of their immediate surroundings and pointed the danger points where children had been injured of killed, for example where children had fallen down open wells, fallen out of open and windows, or been run over by cars. The rapidly increasing and reckless traffic on the streets of especially Kabul is also becoming an increasing danger for children. Cases have been reported I 2002 by human rights groups where children have lost their lives or even been disabled for life due to the traffic hazards of Kabul. Unofficial statistics estimate upto 2000 injuries per month in Kabul alone! There is often no recourse to legal action or compensation for the children. In the urban reconstruction process currently being undertaken in the major cities there is hardly any focus placed on consultations with children, instead investment continues to be made on urban development with little regard for the physical environment of children, creating an increased security risk for children.

Availability of and access to appropriate quality education
Education for children is a real need that is constantly mentioned by all focus group participants (children, women, leaders, teachers, etc), not only among the IDPs in Afghanistan but in regions of repatriation and general locations in Afghanistan. There is a need to continue with the work started for revival and rehabilitation of schools, teacher training, regular distribution of school supplies/material, revision of teaching materials, development of school management techniques, inclusion of children especially at risk, promoting conflict resolution as part of class room and teacher training, improving the standard of home based schools etc. Apart from this there is also a need to view the education system as a whole and address the overarching hindrances at national level that discriminate children and prevent admission of children to schools. e.g. The registration of children in schools should not be obstructed by lack of adequate identity documents, since birth registration and documentation have not been ensured consistently due to internal/external displacement and conflict. Many children over the last 20 years have been born in refugee camps where birth registration has been irregular. About one million children eligible to be enrolled could be deprived of schooling if these issues remain un-addressed! There still remain hindrances to the education of girls in some provinces that need to be politically regulated. The unresolved issue of the status of home based schools for girls, not formally accepted by the Administration as being a part of the education system is one such issue. These schools often run by the community themselves remain the only recourse available for girls wishing to continue education in the provinces after the primary level. Today thousand of these village level secondary schools function in many provinces especially in the North, East and West of Afghanistan. Most schools use the national textbooks but also include other topics relevant for the young girls. Girls in these schools are at risk of being deprived recognition for their educational qualifications due to rigid and conservative attitudes existing in the present education system !

Medium to longer term concerns

Security and Protection of Girls and Women. Despite the limited steps taken to appoint women to political and administrative posts in the public sector and employment of women in increasing numbers within the private sector and international organisations the emotional distress and security implications together with the lack of mobility for women and girls still prevails. Ethnic discrimination has compounded the problem for women and girls in the provinces. A number of women's and youth groups consulted with in the provinces reported that women face many more problems now than they did under the Taliban, greater verbal abuse, more soldiers on the street, the reopening of "night clubs" linked

to video shops, controls imposed by the department of Islamic Teaching and conflicting orders from time to time by warlords in the provinces affecting female mobility etc. This is in part why women are choosing to keep their burqas on, even in Kabul. Thus, the concerns of women and girls must be given due consideration and priority in political moves for security both at Kabul and regional levels. Today, the security situation seems to be falling back once more after its pockets of success. Incidents of abuse and violence, rape, kidnapping, sale of women and children in human trafficking, and tribal rivalry using women and children as "gifts" for settlement are all on the rise once more according to human rights groups and many recent reports and studies. The Transitional Administration has not been able upto extend its authority nationwide, to meet the factional groups in the provinces upfront, and effectively address these acts of gender violence.

The lack of judicial and legal protection, absence of legal representation and opportunities to speak before the authorities or the Courts continues to hinder the exercise of human rights by women and girls. There are also a number of young girls in jail from 13 years and above (accused of extra marital offences by their husbands of which they are completely innocent) and also children imprisoned with their mothers for so called "crimes" that neither fall within the provisions of the Afghan Penal Code nor the existing Sharia Law. The vast majority of crimes are "Tazeeri " offences not worthy of imprisonment at all! However judges continue to base their judgements on the Sharia Law in all these cases and order stringent punishment and prison sentences in some cases even without a Court hearing!.

Another group of children inadequately protected by the law and also by the police are street and working children. They are often subject to violence and abuse by the police and languish in custody or are locked up in jail for long periods without charges or access to legal representation. Ages range from 7-18 for boys and 7-12 for girls. They are housed with hard core criminals, drug smugglers, vagrants, sexually abused young people etc. and face even more abuse whilst in custody. There are no social workers or probation officers assigned by the Sate to protect these children in institutions. Children interviewed brought up issues such as teasing, discrimination, harassment, trauma and psychosocial problems due to long terms of confinement without stimulation and access to their families.

Working children in the carpet industry and leather goods industry in Kabul seems to be fast escalating. Boys and girls from the age of 6 are being sent to home-based factories to work long hours of the day by their families. The girls are forced to work longer hours under strict working conditions. The boys manage in some cases to shirk their duties and this seems to be more accepted by the families too who sympathise more with the boys and their need to combine work and play. Raw material is brought in from Pakistan and the manufactured products are also sold in the Pakistani markets, usually by family members. Traditionally the carpet weaving industry was an occupation carried on by women. It was an asset to be a skilled weaver at the time of marriage. This is the first time that the country is witnessing the exploitation of children. The children are also often subject to violence and abuse by their employers. Although in some cases schools are functioning the short school hours (2-3 hours), the lack of school material and teachers, and low family motivation levels have encouraged child labour to exist side by side with education. The school going children have to work longer hours into late at night to finish their tasks in the workplaces. In areas where there is no access to electricity the manufacturers are hooking themselves illegally to some one else's supply to sustain the work. Numbers of working children are on the increase today with the corresponding increase in rural urban migration and squatter settlements in the urban areas.

A relatively new but growing problem especially in the rural areas is the exploitation of children by their families in income generation activities initiated by international NGOs engaged in micro credit initiatives. In a bid to show donors good performance for the micro credit or raw material received from the donor children are being exploited by their families in weaving, carpet manufactory, kitchen gardens, small farming activities, animal husbandry etc. to show quick results. Children have been forced to work instead of attending school after the family began to receive the micro credit! There is an immediate need for NGOs engaged in rural credit initiatives to analyse the consequences of their inputs on children and not only measure the results according to impact on women, farmers, small business men etc.

Exploitation of Children Through Trafficking - Interviews with children and also organisations monitoring their human rights in the Northern and Western provinces repeatedly referred to this issue as an increasing problem. The problem goes beyond sexual exploitation and abuse. The children some as young as 8 years old, seem to primarily originate from the North Eastern region of the country and the trafficking networks are local networks usually with links to networks and "agents" in neighbouring countries. Sometimes even family members are engaged in the business! Most common forms of exploitation through trafficking include forced prostitution (boys and girls), forced labour in neighbouring countries (boys), abductions for forced marriage (girls), marriage for debt relief (boys and girls), exchanges of young girls for dispute settlement, for domestic services as students in Madrassas (boys). Afghanistan is both a country of origin and also transit for children trafficked from neighbouring countries.

Exploitation of Children As Smugglers - Especially boys from 12 years and upwards for transport of small arms and drugs is on the increase after the Taliban collapse. This occurs especially across the border to the North West Frontier Province when people are moving over the hills, or engaged in the transport business taking goods across the border or engaged in petty cross border trade. Some ex child soldiers who belonged to factional groups now disbanded are also finding this a lucrative source of income to support their families. With the increase in poppy cultivation and opium production that is being observed recently (opium production has risen by 6% in 2003 alone as per UNODC figures) more youth are being drawn to this lucrative business which ensures quick payment in cash. The child soldiers currently under demobilisation and reintegration should be monitored carefully over a long period to ensure that they do not leave their guns only to be exploited by other criminal groups engaged in smuggling drugs! About 5,000 youth are expected to be demobilised in 2004 alone.

Appropriate psychosocial support

There is a need to adopt appropriate approaches within psychosocial support programmes by donors and aid agencies. Further, there is a need to build on traditional family and community support systems and structures to address psychosocial issues and trauma affecting children after over 20 years of conflict in Afghanistan. The aerial bombing and long period of internal and external displacement has resulted in many families missing family members or having no information about their whereabouts. This occurs due to family separation in migration, because a family member (usually a male) goes in search of economic livelihood and is never heard of again, because people smuggle relatives out to other countries and then receive no information about them and because there are no available records of the conditions and whereabouts of political prisoners. The emotional toll of not knowing whether a relative is alive or dead is high.

Attention should also be given to the psychosocial needs of youth under the current demobilisation and reintegration programme of the Transitional Administration. Psychosocial support should be made an important part of the reintegration process to ensure proper readjustment / respect for these children.

Appropriate approaches based on community care and support in preference to institutionalisation

Many children have lost their parents during the conflict. Orphans are a current topic for journalists and some donors. However we must be careful to act with cultural sensitivity when dealing with this issue. We must consider non-institutional options in the first instance promoting social integration using existing community service structures even if there could be more donor funds available for institutional solutions. Some (destructive) journalism today seems to have made orphan children popular objects of charity in Afghanistan and created distinct children's groups "foreign" to Afghanistan.

It is thus necessary that co-ordinated and appropriate support is given to children orphans, in a way that fosters their social integration within a family environment to the maximum extent possible. In the context of Afghanistan even children in female headed households are referred to as orphans and have to be included in assistance programmes in keeping with the cultural interpretation of the word.

The same principles promoting social and community reintegration need to be strictly observed even in relation to juvenile offenders who seem to be a group often singled out to be placed in closed institutions "not to be seen or heard". Government departments invite charitable donations from the public and institutional support from donors to uphold these institutions rather than seeking capacity building on alternate systems of care in the best interest of the child. The present judicial system seems unable to

understand the child's perspective in relation to the law and children are often sent to prison for petty crimes and languish in custody without criminal charges or an opportunity to defend themselves.

Need to better understand the impact of twenty-two years of war on children and young people
Ethnic conflict and increasing polarisation of ethnic groups is on the increase even in the minds of children. Children call each other names and insult one another's ethnic origins especially in school. There is also a great deal of violence within families, in the class room and also gender related abuse and violence that needs to be critically viewed in order to promote non-discrimination in school environments and non-violence in the society and in the family.

Within the new government in Afghanistan it is necessary that promoting rights for children and young persons receives attention at policy levels and impartial monitoring of the rights of boys and girls is adequately managed. Mechanisms and institutions monitoring and reporting on the rights of children and young people should be strengthened at various levels in society and their capacities and skills enhanced to ensure their ability to promote children's rights in consultation with children themselves.

Some important protection issues that need to be focussed within such a structure are:-

Early Child Marriage/ other illegal Alliances Due To Prevailing Acute Poverty - Girls as early as 12 years are reported as being sold by their families into early marriage in order to raise family incomes. Sometimes girls even enter into illegal prostitution in order to support the family. Sums as low as US Dollar 10 for a 12 year old girl have been quoted by some of our sources. Some of these children may now be entering the cross-border trafficking market to Iran, Pakistan and the Middle East. Average ages are 12-14 years.

The need for preventive measures and stringent action to combat all forms of trade with the lives of children and young people as per the concerns raised in this paper whatever maybe the purpose and objective of the cross border or inter provincial trafficking.

The need for effective measures to address violence and abuse including gender violence, corporal punishment, abuse and violence in the workplace, criminality and violence from factional groups, against minorities and political opponents and their families - often raised by children and young people as a part of the culture of violence prevailing at all levels of society including within the school system, in the family and community.

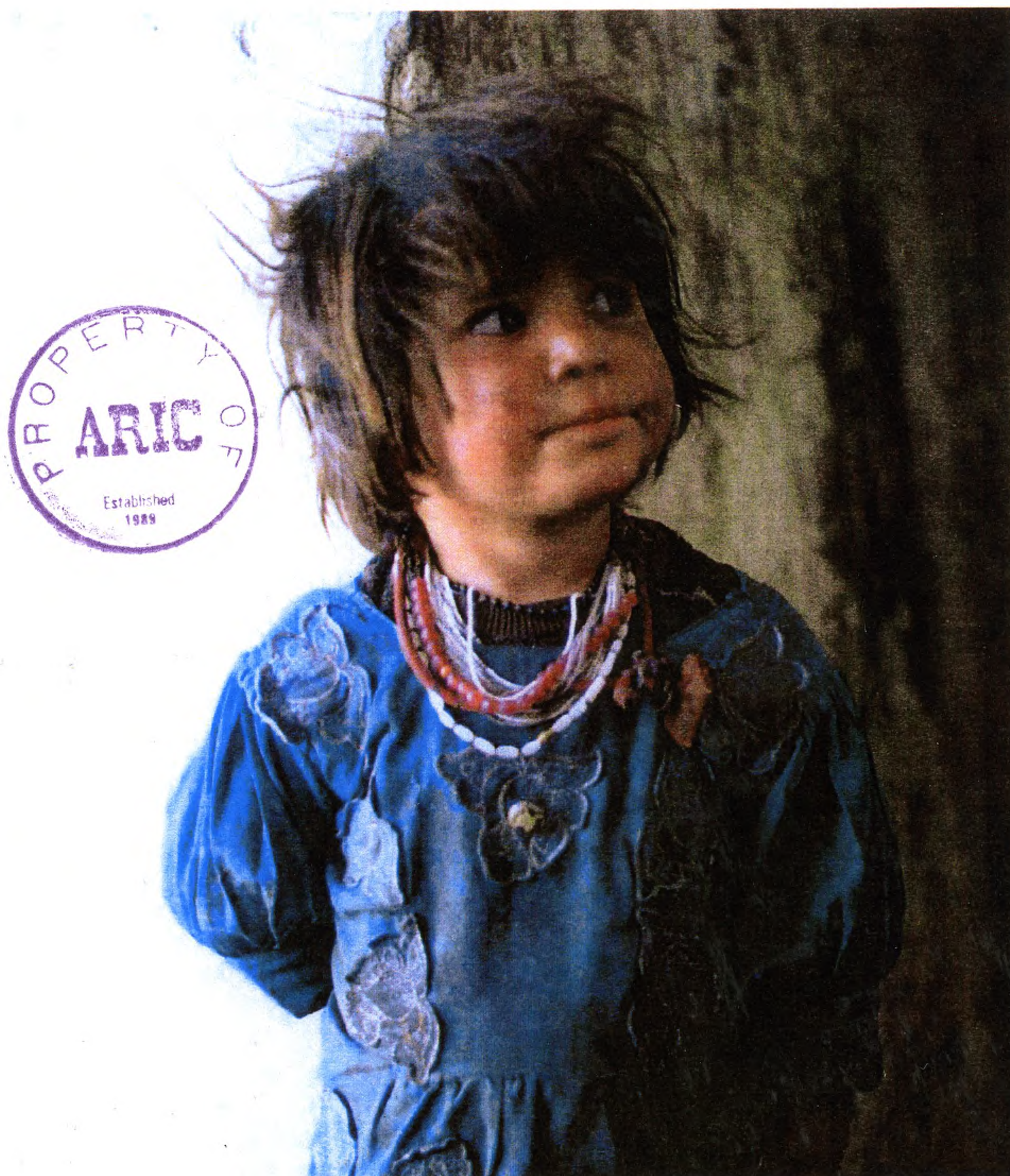
Public recognition of the harassment, abuse, violence, trauma and psychosocial issues affecting children and young people in institutions and at the hands of law enforcement authorities and institutions (including the Courts) and the need for alternative care, legal and social protection to be ensured by the State in this regard.

The lost opportunities of Children With Disabilities - Disabled children (boys and girls) are yet another group of children increasingly exploited today by their families and relatives to raise money for family survival. They have been reported as being sent by their caretakers to beg on the streets and contribute towards family incomes. Among some refugee-returnee groups these children are being sent by their families to collect extra benefits from UNHCR, NGOs and donors having humanitarian assistance programmes. Since in some immediate response programmes 'most vulnerable families' get additional material (food, blankets) and financial support , these disabled children are being used to draw extra these benefits to the family. The child however has no access to the benefits received. The relief materials received by the disabled children is sold by the family next day on the open market to raise cash necessary for the whole family.

Compiled by Shirin Persson, Save the Children Sweden on behalf of the Save the Children Alliance in Afghanistan.
To be presented and disseminated at Human Rights Commission (60th session) Geneva, 25-03-2004.

CHILDREN AND THEIR RIGHTS IN AFGHANISTAN

Current concerns regarding protection Issues and rights for children and young adults





Save the Children

THE SITUATION OF CHILDREN IN AFGHANISTAN – 2004

- The population of Afghanistan is estimated to be 24 million
- One of five children die before the age of 5 (i.e. 257 of every thousand born)
- 85 000 children die of diarrhoea per year
- The maternal mortality rate today is 1,600 maternal deaths per 100,000 live births. 87% of these deaths are considered preventable by UNICEF
- Access to decent health services is available to only about 35% of the population. Consequently about 85 % of women rely on untrained traditional birth attendants
- There is only one doctor for every 50 000 people in Afghanistan
- Average life expectancy is 44 years.

- A mere 12% have access to adequate drinking water (access mainly in the cities)

- About 4.5 million children are eligible for school enrollment. 3 m children enrolled. However only 1.8 million have access to school material and education facilities.
- The average school enrollment rate was 39% for boys and 3% for girls in 1999. Today girls represent 30% of the students mainly at primary school level. Drop out rates are still very high. At high school education level only about 3% girls.

- One and a half million people have been killed in the course of the fighting.
- In a UNICEF/Save the Children survey of 500 Afghan children conducted in 1998, 60% of the children interviewed had lost a family member.
- In a UNICEF survey conducted in 1997, about 35% of children interviewed had themselves tended to a dead friend or relative.

- There are estimated to be 700 000 war widows in Afghanistan.
- Currently 3% - 5% of all households appear to have no adult male above the age of 15.
- Children of such households are often the primary wage earners. There are 60 000 children working on the streets of Kabul city alone.

- There are estimated 10 million live mines still buried in Afghanistan. One for every 2.4 people in the country. Children are particularly vulnerable to becoming land mine casualties as they fetch water, collect firewood, heard animals, play in open fields, or even walk to school. UXOs account for up to 300 deaths and major casualties every month. About 70% of the victims are children. Aerial bombings by Coalition Forces on civilian targets in the South East of the country resulted in the death of 15 children in December 2003 alone! Nine of these children who died were under 12 years.

- An estimated 2.5 million refugees have returned from Pakistan and Iran. About 50% of them are women and girls. 10% of the returning families are headed by women. Additionally, there are around 1 million internally displaced persons.
- The international aid community is currently supporting 3 m people with food aid.

SOURCES:- UNICEF, UNHCR, WFP, UNIFEM, UNAMA, ACBAAR, Save the Children Alliance, International Human Rights Law Group, CCA Afghanistan, Afghan Womens Network (AWN), AIHRC Kabul and Provincial Offices,

For Details Contact Shirin Persson, Programme Manager, Save the Children Sweden-Norway Afghanistan Programme Office, Kabul.